REMARKS/ARGUMENTS

In the Office Action mailed April 18, 2008, claims 1-6 and 8-10 were rejected. Additionally, claims 3 and 11-14 were objected to, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants hereby request reconsideration of the application in view of the below-provided remarks. No claims are amended, added, or canceled.

Allowable Subject Matter

Applicants appreciate the Examiner's review of and determination that claims 3 and 11-14 recite allowable subject matter. In particular, the Office Action states that claims 3 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Additionally, while the Office Action provides a statement of reasons for the indication of allowable subject matter, the Office Action's statement is directed to specific aspects of certain claims and not necessarily all of the claims. Applicants note that the Office Action's comments may have paraphrased the language of the claims and it should be understood that the language of the claims themselves set out the scope of the claims. Thus, it is noted that the claim language should be viewed in light of the exact language of the claim rather than any paraphrasing or implied limitations thereof.

Claim Rejections under 35 U.S.C. 103

Claims 1, 2, and 8-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Freiberg et al. (U.S. Pat. No. 6,788,657, hereinafter Freiberg) in view of Higuchi et al. (U.S. Pat. Pub. No. 2002/0012383, hereinafter Higuchi). Additionally, claims 2-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Freiberg in view of Setty et al. (U.S. Pat. Pub. No. 2003/0103469, hereinafter Setty). However, Applicants respectfully submit that these claims are patentable over Freiberg, Higuchi, and Setty for the reasons provided below.

Independent Claims 1, 8, 9, and 10

Independent claim 1 recites "an estimate, for a given service, of a difference between the specific predetermined error rate requirement and a measured current error rate" (emphasis added). Claims 8, 9, and 10 recite similar limitations. Applicants submit that neither Freiberg nor Higuchi teaches at least the aforementioned limitation of independent claim 1. The Office Action rejects independent claim 1, contending that Higuchi purportedly provides this necessary teaching. Office Action, page 13. The Office Action further asserts that an "estimate" is generally equivalent to a "measurement." Office Action, page 13. This contention is respectfully traversed.

Higuchi relates to controlling power according to a difference between a detected reception error rate and a target reception error rate. Higuchi, page 7, claim 6, lines 3-8. Controlling power according to a difference between a detected reception error rate and a target reception error rate is not the same as balancing a current individual transmission powers with respect to an estimate, for a given service, of a difference between the specific predetermined error rate requirement and a measured current error rate because Higuchi is concerned with controlling power based on the actual measured difference between a detected reception error rate and a target reception error rate, and not an estimate of the difference. With reference to the specification of the present application, one example of an "estimate" is an estimate from an expected performance curve, although other estimates may be used. An estimate is different than a measurement, in many ways. For example, an estimate may be based on a lookup table and may use little or no processing time compared to an actual measurement. In some cases, an estimate is implemented to save time and to relatively reduce a computational load that would be involved with an actual measurement. Thus, Higuchi appears to be silent in regards to controlling power according to an estimate of the difference between a detected reception error rate and a target reception error rate because Higuchi merely describes using an actual measurement.

Furthermore, even though some estimates may be based on actual measurements, not all estimates require actual measurements. An estimate could be based on a calculation. Another estimate could be based on a theory. Hence, many types of estimates are based on information other than actual measured data.

Moreover, the mere description of a measurement is insufficient to teach an estimate. More specifically, the teaching in Higuchi of using a detected, or measured, reception error rate is insufficient to teach using an estimate. Therefore, Higuchi does not teach an estimate of a difference between the specific predetermined error rate requirement and a measured current error rate. Consequently, Applicants respectfully assert that claim 1 is patentable over Freiberg and Higuchi because Higuchi does not teach "an estimate, for a given service, of a difference between the specific predetermined error rate requirement and a measured current error rate," as recited in claim 1. Accordingly, Applicants respectfully submit that claims 1, 8, 9, and 10 are patentable over the combination of Freiberg and Higuchi because the cited references do not teach all of the limitations of the claims.

Independent Claim 4

Independent claim 4, as amended, recites "a step of estimating code block size coding gains related to the transport data blocks" (emphasis added). Applicants submit that neither Freiberg nor Setty teaches at least the aforementioned limitation of independent claim 4. The Office Action rejects independent claim 4, contending that Freiberg purportedly provides this necessary teaching. Office Action, page 14. This contention is respectfully traversed.

Freiberg relates to using a coding gain, CF_i, as an input to a rate matching step, the output of which is the energy per symbol over the spectral noise density. Freiberg, col. 8, lines 22-26. Additionally, Freiberg merely states the coding gain CF_i "comes from the used coding scheme." Freiberg, col. 10, line 16. However, the description of a coding gain from a used coding scheme is insufficient to teach estimating code block size coding gains because the description of taking a coding gain from a used coding scheme does not specify whether the coding gain from a used coding scheme is an estimate. Furthermore, it appears that Freiberg is silent with regard to whether the coding gain CF_i could be an estimate. Therefore, Freiberg does not teach estimating code block size coding gains related to the transport data blocks. Additionally, the Office Action does not assert that Setty might teach the missing limitation of Freiberg. Accordingly, Applicants respectfully assert that claim 4 is patentable over Freiberg and Setty because

Freiberg does not teach "a step of estimating code block size coding gains related to the transport data blocks," as recited in claim 4. Accordingly, Applicants respectfully submit that claim 4 is patentable over the combination of Freiberg and Setty because the cited references do not teach all of the limitations of the claim.

Dependent Claims

Claims 2, 3, 5, 6, and 11-14 depend from and incorporate all of the limitations of the corresponding independent claims 1, 4, 8, 9, and 10. Applicants respectfully assert claims 2, 3, 5, 6, and 11-14 are allowable based on allowable base claims. Additionally, each of claims 2, 3, 5, 6, and 11-14 may be allowable for further reasons.

CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the amendments and remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,

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